

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

DEC 18 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

AL OTRO LADO, a California corporation;
et al.,

Plaintiffs-Appellees,

v.

CHAD F. WOLF, Acting Secretary, US
Department of Homeland Security; et al.,

Defendants-Appellants,

and

EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW,

Appellant.

No. 20-56287

D.C. No.

3:17-cv-02366-BAS-KSC

Southern District of California,
San Diego

ORDER

Before: OWENS, FRIEDLAND, and R. NELSON, Circuit Judges.

Appellants (collectively, “the Government”) request an emergency administrative stay of the district court’s October 30, 2020, order granting Al Otro Lado’s motion for clarification of the preliminary injunction (“clarification order”). The Government also seeks a stay of the district court’s clarification order pending appeal.

“A temporary stay in this context (sometimes referred to as an administrative stay) is only intended to preserve the status quo until the substantive motion for a

stay pending appeal can be considered on the merits, and does not constitute in any way a decision as to the merits of the motion for stay pending appeal.” *Doe #1 v. Trump*, 944 F.3d 1222, 1223 (9th Cir. 2019).

The status quo will be preserved by granting in part and denying in part the administrative stay request (contained in Docket Entry No. 7). Therefore, the administrative stay is granted insofar as the clarification order requires the Government to take affirmative steps to find and reopen or reconsider cases in which the Asylum Transit Rule was applied to provisional class members but that became final before November 19, 2019, when the preliminary injunction was entered, or during the period of the administrative stay in *Al Otro Lado v. Wolf*, No. 19-56417, December 20, 2019, to March 5, 2020. The administrative stay is denied in all other respects, including as to the Government’s obligation to adjudicate consistent with the clarified preliminary injunction any motion to reopen or reconsider that is filed by a member of the provisional class.

The opposition to the motion for a stay pending appeal remains due December 28, 2020. The optional reply remains due January 4, 2021.

The briefing schedule established previously for the merits of this appeal remains in effect.